

## 48A C.J.S. Judges § 206

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### VII. Compensation and Fees

#### B. Amount

#### 3. Particular Amount

### § 206. Allowance for expenses

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Judges](#)  22(10)

**Within constitutional limitations, the legislatures may provide for the payment of the expenses of judges incident to their office.**

In the absence of authority of law, a judge has no right to be reimbursed for the judge's expenses.<sup>1</sup> There is no common law duty entitling a judge to reimbursement for legal fees,<sup>2</sup> and under some statutes fixing the salary of judges, no mileage or other expenses are allowed.<sup>3</sup>

Within constitutional limitations, however, the legislatures may provide for the payment of the expenses of judges incident to their office,<sup>4</sup> and by express provisions of law, judges sometimes are given allowances for clerk hire, mileage, and other expenses incident to the office.<sup>5</sup> So, a judge may be entitled to legal<sup>6</sup> or travel<sup>7</sup> expenses. It is not unreasonable to expect a judicial officer

who is required to appear in more than one county to be reimbursed for his or her travel expenses between the counties.<sup>8</sup>

A federal statute provides for government reimbursement of defense costs when a federal judge is sued in his or her official capacity, or is otherwise required to defend acts taken or omissions made in his or her official capacity, and the services of a government attorney are not reasonably available.<sup>9</sup> The statute applies to situations in which a judge takes action to defend against coercive government acts.<sup>10</sup> Compensable actions include bringing a petition to quash a subpoena because subpoenas are backed by the coercive power of the government.<sup>11</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Common law principles governing a duty to defend in a commercial insurance setting did not apply to obligate the State to pay a stipulated settlement between judge and court reporter settling court reporter's sexual harassment claims; there was no application of the common law where the law is declared by statute, and statute addressed the indemnification or defense of public officers and employees and described the process to be followed to make such determinations. [Mont. Code Ann. §§ 1-1-108, 2-9-305](#). [State v. Berdahl, 2017 MT 26, 389 P.3d 254 \(Mont. 2017\)](#).

## [END OF SUPPLEMENT]

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### Footnotes

- 1 N.Y.—[Townsend v. Board of Sup'rs of Seneca County, 73 Misc. 563, 133 N.Y.S. 555 \(Sup 1911\)](#).  
Utah—[Marionaux v. Cutler, 32 Utah 475, 91 P. 355 \(1907\)](#).
- 2 Me.—[Hart v. County of Sagadahoc, 609 A.2d 282, 47 A.L.R.5th 943 \(Me. 1992\)](#).
- 3 Ark.—[Gipson v. Maner, 225 Ark. 976, 287 S.W.2d 467 \(1956\)](#).
- 4 Mo.—[Weinstock v. Holden, 995 S.W.2d 411 \(Mo. 1999\)](#).
- 5 Mo.—[State ex rel. Gray v. Wilder, 206 Mo. 541, 105 S.W. 272 \(1907\)](#).  
Ohio—[State ex rel. Winn v. Galvin, 39 Ohio St. 2d 58, 68 Ohio Op. 2d 33, 313 N.E.2d 813 \(1974\)](#).

- 6 U.S.—*McBryde v. U.S.*, 299 F.3d 1357 (Fed. Cir. 2002); *Bryan v. Murphy*, 246 F. Supp. 2d 1256 (N.D. Ga. 2003).
- Cal.—*Municipal Court v. Bloodgood*, 137 Cal. App. 3d 29, 186 Cal. Rptr. 807 (2d Dist. 1982).
- Pa.—*Yurgosky v. Com.*, Administrative Office of Pennsylvania Courts, 554 Pa. 533, 722 A.2d 631 (1998).
- 7 U.S.—*Putnam v. U.S.*, 32 F.3d 911 (5th Cir. 1994).
- N.Y.—*Bergin v. Office of Court Admin.*, 190 A.D.2d 981, 594 N.Y.S.2d 85 (3d Dep't 1993).
- Subsistence and lodging**  
Judges are entitled to actual and necessary expenses for subsistence and lodging when required to travel; the supreme court will audit and approve such expenses for their actuality, necessity, and reasonableness.
- Mont.—*Matter of Actual Necessary Expense of Judges*, 168 Mont. 170, 541 P.2d 345 (1975).
- 8 **Excess travel expense**  
Where a travel allowance was insufficient to reimburse a judge of a joint circuit or joint county court for the reasonable number of trips to a second county in pursuit of judicial duties, the judge was entitled to reimbursement for the excess, and such excess travel expenses would be divided equally between the two counties without regard to the county in which the judge presided.
- Ind.—*Levco v. Auditor of State*, 271 Ind. 415, 393 N.E.2d 749 (1979).
- 9 28 U.S.C.A. § 463.
- 10 U.S.—*McBryde v. U.S.*, 299 F.3d 1357 (Fed. Cir. 2002).
- 11 U.S.—*McBryde v. U.S.*, 299 F.3d 1357 (Fed. Cir. 2002).